

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/534,487 03/24/00 REID

L 114231.119

021269  
PEPPER HAMILTON  
600 FOURTEENTH STREET NW  
WASHINGTON DC 20005

HM22/0511

EXAMINER

WOITACH, J

ART UNIT	PAPER NUMBER
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1632

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DATE MAILED: 05/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Advisory Action</b>	Application No. <b>09/534,487</b>	Applicant(s) <b>Reid, L.M. et al.</b>
	Examiner <b>Joseph T. Woitach</b>	Art Unit <b>1632</b>

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED May 5, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**THE PERIOD FOR REPLY [check only a) or b)]**

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b)  In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on May 5, 2001. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search. (See NOTE below);
  - (b)  they raise the issue of new matter. (See NOTE below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The proposed amendment of administering 'progeny thereof, or both' increases the breadth of types of cells from only precursor cells as originally recited. Further, there is no support on p8/l20 for this limitation.

4.  Applicant's reply has overcome the following rejection(s):
   
 \_\_\_\_\_
   
 \_\_\_\_\_
5.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).
6.  The a)  affidavit, b)  exhibit, or c)  request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   
Examiner agrees that delivery of a polynucleotide to a cell is routine, however applicants arguments and the present specification fail to provide a nexus for in vivo delivery, and the necessary guidance to (see other below)
7.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8.  For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
   
 Claim(s) allowed: None
  
 Claim(s) objected to: None
  
 Claim(s) rejected: 21-40
9.  The proposed drawing correction filed on \_\_\_\_\_ a)  has b)  has not been approved by the Examiner.
10.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
11.  Other: *overcome the art recognized limitations set forth in the previous office action for the broad method of treatment of any liver dysfunction encompassed by the claims.*

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***Information Disclosure Statement***

The information disclosure statement filed May 4, 2001 fails to comply with 37 CFR 1.97(d) because: 1) it lacks a statement as specified in 37 CFR 1.97(e); 2) it lacks a petition requesting consideration of the information disclosure statement, and 3) it lacks the petition fee set forth in 37 CFR 1.17(i). It has been placed in the application file, but the information referred to therein has not been considered.

In addition, the PTO-1449 submitted contains one cited reference, Culver *et al.*, however four additional references are also attached. A copy of the PTO-1449 and a copy of the first page of each of the four additional references are attached for clarity.

*Scott D. Priebe*  
SCOTT D. PRIEBE, PH.D  
PRIMARY EXAMINER